

BAY COUNTY ELECTION COMMISSION

PORTSMOUTH TWP. CLARITY
MARCH 6, 1992

THE BAY COUNTY ELECTION COMMISSION MET ON FRIDAY, MARCH 6, 1992, FOR THE PURPOSE OF REVIEWING PETITIONS SUBMITTED FOR THE RECALL OF THE PORTSMOUTH TOWNSHIP BOARD. THE PETITION HAD BEEN SUBMITTED BY PORTSMOUTH TOWNSHIP RESIDENT, DON KRZEWSKI. THE MEETING WAS CALLED TO ORDER BY CHAIRMAN DONER AT 1:00 P.M. THE FOLLOWING MEMBERS & GUESTS WERE IN ATTENDANCE.

ROLL CALL: JUDGE PAUL DONER, CHAIRMAN
CAROLINE KROL, TREASURER
BARBARA ALBERTSON, CO. CLERK

OTHERS CYNTHIA A. LUCZAK, SECRETARY
PRESENT: JUDY BUKOWSKI, TWP. CLERK
HENRY BRANDT, TREASURER
DALE DAVIS, TRUSTEE
VIRGIL GATZA, TRUSTEE
CHARLES PAWLAK, TRUSTEE
JOHN MCQUILLAN, ATTORNEY
LES JOHNSON, RESIDENT
EDWARD BRISTOW, RESIDENT

CHAIRMAN DONER STATED THE COMMISSION HAD MET ON THIS DATE TO CONSIDER THE WORDING SUBMITTED ON PETITIONS FOR RECALL OF EIGHT PORTSMOUTH TOWNSHIP BOARD MEMBERS.

AS THE MEETING WAS CALLED IN ACCORDANCE WITH THE OPEN MEETINGS ACT, CHAIRMAN DONER OFFERED TO ACCEPT PUBLIC COMMENT AT THIS TIME. THERE WERE NO MEMBERS OF THE PUBLIC WHO WISHED TO VOICE THEIR COMMENTS.

ATTORNEY JOHN MCQUILLAN SPOKE ON BEHALF OF ALL TOWNSHIP BOARD MEMBERS. HE MADE REFERENCE TO MCLA SECTION 168.952 "THAT THE ELECTION COMMISSION SHALL MEET TO DETERMINE WHETHER THE REASONS FOR RECALL STATED IN A PETITION ARE OR ARE NOT OF SUFFICIENT CLARITY TO ENABLE THE OFFICER WHOSE RECALL IS BEING SOUGHT AND ELECTORS, TO IDENTIFY THE COURSE OF CONDUCT WHICH IS THE BASIS FOR THE RECALL". IT WAS MR. MCQUILLAN'S OPINION, THE FIRST SENTENCE OF THE PETITION DID NOT MEET THE CRITERIA AS THE PORTSMOUTH TOWNSHIP OFFICIALS WERE ABLE TO HIRE LEGAL COUNSEL. FURTHER, THAT LANGUAGE WITHIN THE PETITION WAS VAGUE. PORTSMOUTH TOWNSHIP HAD NOT PAID FOR THE FILING OF LEGAL COURT ACTIONS AS THE PETITION INDICATED. ALLEGATIONS OF COURT CASE FILINGS WERE ALSO CONSIDERED AMBIGUOUS BY THE TOWNSHIP, APPEAL CIRCUIT COURT CASE HAD BEEN INITIATED (91-3379) BY MR. KRZEWSKI. ALSO, IN THE FALL OF 1991, PETITIONER KRZEWSKI FILED A CASE AGAINST THE BAY COUNTY DEPARTMENT OF WATER & SEWER WHICH INCLUDED PROCEEDINGS OF

MARCH 6, 1992

PREVIOUSLY HELD RECALL HEARINGS OF THE ELECTION COMMISSION. THUS, REFERRAL OF "NUMEROUS" COURT CASES WAS ALSO IN ERROR, THE COURSE OF CONDUCT NON EVIDENT. FURTHER, ATTORNEY MCQUILLAN CONTENDED THE USE OF PUBLIC FUNDS FOR RECALL HEARING LEGAL REPRESENTATION, WAS ARGUMENTATIVE, NOT FACT AND NO PROPER BASIS FOR RECALL. LEGAL FEES CAN BE REIMBURSED TO TOWNSHIP OFFICERS.

MR. EDWARD BRISTOW APPEARED TO PRESENT A STATEMENT PREPARED BY PETITIONER, DON KRZEWSKI, AS HE WAS CALLED OUT OF TOWN ON BUSINESS AND UNABLE TO ATTEND. IT WAS MR. KRZEWSKI'S OPINION THAT PUBLIC FUNDS MAY NOT BE USED PROVIDE LEGAL REPRESENTATION FOR THE TOWNSHIP OFFICERS PURSUANT TO ATTORNEY GENERAL OPINION. A PACKET OF ATTORNEY FEE PAYMENTS WAS PRESENTED TO EACH ELECTION COMMISSION MEMBER FOR REVIEW. MR. BRISTOW CONCLUDED A BASIS FOR RECALL DUE TO MALFEASANCE AND MISFEASANCE OF THE TOWNSHIP OFFICERS BY PAYMENT OF THE ATTORNEY FEES.

MR. MCQUILLAN ADDED MCLA 691.1408 PROVIDED THE TOWNSHIP AUTHORITY TO EMPLOY COUNSEL TO REPRESENT TOWNSHIP OFFICIALS ASSOCIATED WITH THE DISCHARGE OF THEIR DUTIES. THAT THE PORTSMOUTH TOWNSHIP BOARD HAD NOT INITIATED THE CIRCUIT COURT LAWSUITS REFERRED TO BY MR. KRZEWSKI.

CHAIRMAN DONER STATED THE PETITION LANGUAGE HAD BEEN FILED IDENTICALLY THE SAME ON ALL PETITIONS. THAT THE OTHER ELECTION COMMISSION MEMBERS COULD VOICE THEIR QUESTIONS/CONCERNS AT THIS TIME.

CLERK ALBERTSON SOUGHT CLARIFICATION TO THE PETITION LANGUAGE REFERRING TO "NUMEROUS" COURT ACTIONS. HER RESEARCH HAD ONLY PRODUCED ONE CIRCUIT COURT ACTION PRESENTLY ON FILE IN HER OFFICE.

CHAIRMAN DONER RESPONDED IT WAS NOT THE ELECTION COMMISSIONS DUTY TO DETERMINE IF THE STATEMENT WAS TRUE, ONLY WHETHER OR NOT IT WAS CLEAR TO THE ELECTORATE. JUDGE DONER DID NOT FEEL HE WOULD UNDERSTAND THE INFORMATION ON THE PETITION, SHOULD IT PRESENTED FOR SIGNATURE IN PORTSMOUTH TOWNSHIP. FURTHER, THAT IT DID NOT MEET THE STANDARDS OF THE CLARITY STATUTE.

MOTION #1: CLERK ALBERTSON MOVED TO REJECT ALL PETITIONS BASED ON THE FACT THAT THEY WERE NOT OF SUFFICIENT CLARITY. CAROLINE KROL SUPPORTED THE MOTION AS IT CARRIED BY UNANIMOUS ROLL CALL VOTE.
3 YEAS, 0 NAYS.

MEETING WAS RECESSED AT 1:15 P.M.

RESPECTFULLY SUBMITTED
BARBARA ALBERTSON